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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL  
CHAIRMAN

Arizona Corporation Commission  
**DOCKETED**

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COMMISSIONER OCT 25 2002

AZ CORP COMMISSION  
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COMMISSIONER DOCKETED BY

IN THE MATTER OF US WEST  
COMMUNICATIONS, INC.'S COMPLIANCE  
WITH SECTION 271 OF THE  
TELECOMMUNICATIONS ACT OF 1996.

DOCKET NO. T-00000A-97-0238

**PROCEDURAL ORDER**

**BY THE COMMISSION:**

On September 27, 2002, AT&T Communications of the Mountain States, Inc. and TCG Phoenix (collectively "AT&T") filed with the Arizona Corporation Commission ("Commission") a Motion to Reopen and Supplement the Record. AT&T requested that the Commission require Qwest Corporation ("Qwest") to supplement the record with sufficient evidence to demonstrate that Qwest and its new Section 272 affiliate are in compliance with Section 272 of the Telecommunications Act of 1996. ("Act").

AT&T asserts that Section 272(3)(B) of the Act states that the FCC shall not approve an application unless it finds that "the requested authorization will be carried out in accordance with the requirements of Section 272." The FCC has held that non-compliance with Section 272 is grounds to deny an application for in-region inter-LATA authority. Qwest recently withdrew its applications to provide in-region interLATA authority for Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington and Wyoming because questions had been raised regarding Qwest's plans to restate its financial statements for prior periods, and whether QCC, the Section 272, affiliate can be said to meet the requirements of Section 272 as a result. Qwest announced an intent to create a new Section 272 affiliate.<sup>1</sup> AT&T asserts that Staff's recommendation, filed April 18, 2002, and the Administrative Law Judge's Recommended Order, issued June 28, 2002, are based on an outdated

<sup>1</sup> Qwest subsequently re-filed its application with the FCC, naming Qwest LD Corp. ("QLDC"), a newly created entity as its Section 272 affiliate for the nine states for which it has pending FCC applications. On October 2, 2002, Qwest requested the Commission suspend the procedural schedule in Docket No. T-02811B-01-0895, in which the Commission is considering the application to amend QCC's CC&N, pending a determination of the in-region affiliate for Arizona.

1 record. AT&T asserts Qwest must update the record or the FCC will make a decision without a fully  
2 developed state record.

3 On October 7, 2002, Commission Staff and Qwest filed responses to AT&T's Motion.

4 Staff supports AT&T's Motion to have Qwest supplement the record with sufficient  
5 information to demonstrate that Qwest's new Section 272 affiliate is in compliance with Section 272  
6 of the Act. Staff also believes that Qwest should supplement the record even if it proceeds to offer  
7 interLATA long-distance service in Arizona through its existing out-of-region affiliate, Qwest  
8 Communications Corporation ("QCC"). Staff notes that its Final Staff Report on Section 272 and the  
9 ALJ's Recommended Order are based on QCC's compliance, and need to be updated to demonstrate  
10 QLDC's compliance. Staff further opines that no matter which affiliate Qwest intends to use to  
11 provide in-region long distance service in Arizona, it should update the record to demonstrate that  
12 that affiliate is GAAP compliant.


13 Qwest argues that that issue of whether Qwest's new Section 272 affiliate complies with the  
14 Act is before the FCC (with a decision expected shortly, no later than December 27, 2002) and it  
15 would be a waste of Commission time and resources to undertake an investigation of the issue at this  
16 point. Qwest states there is nothing in its interLATA affiliate's relationship with Qwest that is unique  
17 to Arizona. Qwest argues that the Act does not require the FCC to consult with state commissions  
18 on the non-state specific Section 272 issues, nor does it require states to issue recommendations with  
19 respect to Section 272 at all. Qwest states the FCC has indicated it will decide whether Qwest's new  
20 interLATA affiliate complies with Section 272 as part of its consideration of Qwest's refiled federal  
21 applications. The FCC's answer for those states will be the same as it would be for Arizona. Thus,  
22 Qwest states the prudent course of action would be for the Commission to issue no findings or  
23 recommendations at all on Qwest's Section 272 compliance, and to leave this subject for the FCC's  
24 imminent decision.

25 On October 11, 2002, Qwest filed a Reply to Staff's Response, reiterating its argument that  
26 the FCC will decide the issue of the affiliates' compliance. Qwest requested oral argument.

27 ...  
28

IT IS THEREFORE ORDERED that a procedural conference for the purpose of considering AT&T's Motion shall commence on November 4, 2002 at 10:00 am., at the Commission's offices 1200 W. Washington, Phoenix, Arizona.<sup>2</sup>

DATED this 25<sup>th</sup> day of October, 2002.

  
JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

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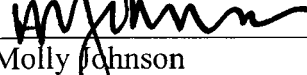
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